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When Recorded, please mail to:  
NORTH COVE ESTATES HOMEOWNERS' ASSOCIATION  
c/o Christopher F. Robinson  
139 East South Temple, Suite 310  
Salt Lake City, Utah 84111

5109722  
09 AUGUST 91 01:17 PM  
KATIE L. DIXON  
RECORDER, SALT LAKE COUNTY, UTAH  
ENSIGN DOWNS  
REC BY: DOROTHY SINFIELD, DEPUTY

**DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS OF  
NORTH COVE ESTATES**

5109722

WHEREAS, the undersigned: ENSIGN DOWNS, INC., Inc., a Utah corporation, ("Declarant"), ALEXANDER J. ROBINSON, CHRISTOPHER F. ROBINSON, VICTORIA A. ROBINSON, BEAVER CREEK PARTNERSHIP, a Utah general partnership, ARIMO CORPORATION, an Idaho corporation qualified to do business in the State of Utah (hereafter collectively "Robinson"), JAMES R. GREENBAUM, JR., KELLY A. GREENBAUM, CHARLES W. WALTON, M.D., DONALD B. OZMUN, POTOMAC CORPORATION, an Illinois corporation, JAMES F. OSTLER, SALLY W. OSTLER, and IDA SMITH (hereafter collectively referred to as "Other Owners"), as their interests appear, are the legal and beneficial owners of a certain tract of land (the "Property") situated in Salt Lake County, State of Utah, described in Section 1.13 of this Declaration; and

WHEREAS, Declarant desires to subject the Property to the provisions of this Declaration to provide covenants, conditions and restrictions applicable to the Property and the development thereof into a private residential community of single-family parcels; and

WHEREAS, Declarant intends to sell Lots (as defined herein) within subdivisions within the Property, pursuant to a general plan of improvement and subject to certain covenants, conditions, restrictions and agreements between and among the several purchasers of said Lots, as hereinafter set forth.

NOW, THEREFORE, Declarant hereby declares that all of the Property, including the improvements constructed or to be constructed thereon, is hereby subjected to the provisions of this Declaration and shall be sold, transferred, conveyed, used, leased, occupied, developed, resided upon, mortgaged, or otherwise hypothecated or otherwise encumbered, and held subject to the following covenants, conditions, restrictions, agreements, easements, assessments and liens, hereinafter set forth, which are for the purpose of protecting the value and desirability of, and which shall run with the title to, the Property and Lots hereby or hereafter made subject hereto. This Declaration shall be binding on all persons having any right, title, or interest in all or any portion of the Property and Lots now or hereafter made subject hereto, their respective heirs, legal representatives, successors, successors-in-title, and assigns and shall inure to the benefit of each and every Owner of a Lot, and any owner of any other portion of the Property, including Declarant and Robinson.

BK 6344 PG 2586

**GRANDFATHER PROVISION.** Notwithstanding any other provision of this Declaration, Declarant, Robinson, and Other Owners hereby grant approval to any and all improvements existing on the parcels described below as of the date of this Declaration and hereby waive and/or grant variance and/or exception to any existing condition which may not be in full compliance with the provisions, terms or requirements of this Declaration regarding, concerning or affecting the following lots, tracts or parcels:

Lot 6, Ensign Downs Plat "H" (proposed Lot 108, North Cove Estates Plat "A");

Lot 7, Ensign Downs Plat "H" (proposed Lot 107, North Cove Estates Plat "A");

Lot 13, Ensign Downs Plat "H" (proposed Lot 101, North Cove Estates Plat "A");

Lot 14, Ensign Downs Plat "H" (proposed Lot 102, North Cove Estates Plat "A");

Lot 902, Ensign Downs Plat "I" (proposed Lot 105, North Cove Estates Plat "A");

Lot 901, Ensign Downs Plat "I" (proposed Lot 106, North Cove Estates Plat "A");

Lot 1101, Ensign Downs Plat "K" and the following parcel: BEGINNING on the West line of East Capitol Boulevard at a point which is South 89 degrees 43 minutes 45 seconds West 333.313 feet and South 00 degrees 16 minutes 15 seconds East 1803.501 feet from the North Quarter Corner of Section 30, Township 1 North, Range 1 East, Salt Lake Base and Meridian and running thence South 00 degrees 16 minutes 15 seconds East 60.237 feet to the Northeast corner of Lot 14, Ensign Downs Plat "H", according to the official plat thereof; thence South 89 degrees 03 minutes 45 seconds West 353.851 feet along the North line and to the Northwest corner of said Lot 14; thence North 03 degrees 51 minutes 44 seconds West 354.820 feet; thence North 89 degrees 43 minutes 45 seconds East 157.961 feet; thence South 00 degrees 16 minutes 15 seconds East 175.00 feet; thence North 89 degrees 43 minutes 45 seconds East 220.00 feet to the West line of said road; thence South 00 degrees 16 minutes 15 seconds East 8.80 feet; thence South 00 degrees 48 minutes 38 seconds West 105.986 feet along said West line to the point of BEGINNING. Basis of bearing for the above parcel is South 00 degrees 16 minutes 15 seconds East along the center line of East Capitol Boulevard of Ensign Downs Plat "I", recorded in Book 88-1 at Page 2 of the Official Records. (proposed Lots 103 and 104, North Cove Estates Plat "A").

**NOTWITHSTANDING** any other provisions of this Declaration, the following provisions shall apply to the parcels, tracts, or lots described immediately above as proposed lots in North Cove Estates Plat "A":

**A. LOT AREA AND WIDTH.** No dwelling shall be erected or placed on any Lot having a "width" (as defined in this paragraph) of less than one hundred feet (100') at the minimum building set back line. The "width" of a Lot shall be measured from property line to property line, parallel to the street, or in the case of a Corner Lot (as defined in Section 7.14. below) or a Lot along a rounded curve, the "width" shall be measured from the property line to the Road Easement line. No dwelling shall be erected or placed on any Lot having an area of less than 30,000 square feet (including the area within the Road Easement).

**B. SET BACKS.** No dwelling shall be located on any Lot nearer than thirty feet (30') to the Road Easement line, or further than seventy-five feet (75') from the Road Easement line. Such set back must comply with all applicable zoning regulations and must be approved by the Committee prior to the start of construction. No dwelling shall be located on a Lot nearer than fifteen (15) feet to any interior side Lot line. A twelve foot (12') minimum side yard shall be permitted for a garage or other permitted accessory building or structure located twenty feet (20') or more to the rear of the main dwelling house. No dwelling shall be located on any Lot nearer than fifty feet (50') to the rear Lot line. Rear yard set backs on any Lot containing an "undevelopable area" must further comply with all Salt Lake City requirements for such Lot. Detached garages or other permitted accessory buildings or structures may be located within thirty feet (30') of the rear Lot line on Lots with no other Lot(s) adjoining on the rear, or within forty (40) feet of the rear Lot line of Lots where other Lot(s) adjoin(s) the rear, so long as such buildings do not encroach upon any easements or violate any Salt Lake City requirements. The location of all dwellings and any permitted detached garage or other accessory buildings or structures must be approved in writing by the Committee prior to the start of construction and must comply with all applicable Salt Lake City regulations.

For the purpose of this covenant, eaves or steps and open porches without roofs shall not be considered as a part of a building; provided, however, that this shall not be construed to permit any portion of any building on any Lot to encroach upon another Lot.

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1. **DEFINITIONS.** The following words, when used in this Declaration shall have the following meanings:

1.1. "Assessment and Voting Unit(s)" or "Unit(s)" means the value and/or vote assigned to a Lot, from time to time, as reflected in a Supplement or Supplements to this Declaration, as provided in Sections 14.3 and 15 of this Declaration. The Unit(s) is/are permanently assigned to a lot for assessment and voting purposes.

1.2. "Association" means and refers to NORTH COVE ESTATES HOMEOWNERS' ASSOCIATION, a nonprofit Utah corporation, its successors and assigns.

1.3. "By-Laws" means the By-Laws of NORTH COVE ESTATES HOMEOWNERS ASSOCIATION.

1.4. "Committee" means the Architectural and Structural Control Committee referred to in Section 8 of this Declaration.

1.5. "Common Property(ies)" means any and all real and personal property and easements, including the easements within the "Road Easement" property as shown on any subdivision plat consisting of any portion of the Property, and other interests therein, together with the facilities and improvements located thereon, now or hereafter owned by the Association for the common use and enjoyment of the Owners.

1.6. "Declarant" means and refers to Ensign Downs, Inc., a corporation, and the successors-in-title and assigns of Ensign Downs, Inc., provided any such successor-in-title or assign shall acquire for the purpose of development or sale all or any portion of the remaining undeveloped or unsold portions of the Property, and provided further, in the instrument of conveyance to any such successor-in-title or assign, such successor-in-title or assign is designated as the "Declarant" hereunder by the grantor of such conveyance, which grantor shall be the "Declarant" hereunder at the time of such conveyance; provided, further, upon such designation of such successor Declarant, all rights of the former Declarant in and to such status as "Declarant" hereunder shall cease, it being understood that as to all of the Property, there shall be only one person or legal entity entitled to exercise the rights and powers of the "Declarant" hereunder at any one point in time.

1.7. "Lot(s)" means each of those plots of land so designated upon any Subdivision plat and/or Supplement to this Declaration hereafter filed in the Salt Lake County Recorder's Office, affecting the Property or any portion thereof, whether or not improvements are constructed thereon, which constitutes or will constitute, after the construction of street improvements, a single dwelling site as shown on the plat for any such Subdivision or amendments thereto, recorded in the land records of Salt Lake County, Utah. The ownership of each Lot shall include, and there shall pass with each Lot as an appurtenance thereto, whether or not separately described, membership in the Association.

1.8. "Majority" means those eligible votes totalling more than fifty percent (50%) of the total eligible number.

1.9. "Mortgage" means any mortgage, deed of trust, or other instrument to secure debt, and any and all other similar instruments used for the purpose of conveying or encumbering real property as security for the payment or satisfaction of an obligation.

1.10. "Mortgagee" means the holder of a Mortgage.

1.11. "Owner(s)" means and refers to the record owner, whether one or more Persons, of the fee simple title to any Lot, unless the Lot is being sold under contract, in which case the record owner and the contract buyer may, by written designation delivered to the Association, designate the contract buyer as the Owner. "Owner" does not include any Person holding such interest merely as security for the performance or satisfaction of any obligation.

1.12. "Person(s)" means any natural person, as well as a corporation, joint venture, partnership (general or limited), association, trust, or other legal entity. If this Declaration allows or requires a vote, act or action, a "Person" which is a corporation, joint venture, partnership, association, trust or other legal entity, other than a natural person, may act by an officer, director, partner, trustee, or other agent or legal representative designated in a properly executed writing delivered to the Association, Committee, or Declarant, as the case may be.

1.13. "Property" means the following tract of land located in Salt Lake County, Utah:

BEGINNING AT A POINT WHICH IS SOUTH 89°43'45" WEST 682.003 FEET AND SOUTH 00°16'15" EAST 1969.614 FEET FROM THE NORTH 1/4 CORNER OF SAID SECTION 30, TOWNSHIP 1 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE NORTH 04°07'59" WEST 102.000 FEET; THENCE NORTH 89°03'45" EAST 21.442 FEET; THENCE NORTH 03°51'44" WEST 606.927 FEET; THENCE NORTH 34°21'24" WEST 227.88 FEET; THENCE NORTH 03°51'44" WEST 397.071 FEET; THENCE NORTH 27°38'32" EAST 221.29 FEET; THENCE NORTH 11°07'04" EAST 353.69 FEET; THENCE NORTH 44°09'00" EAST 96.94 FEET; THENCE NORTH 13°00'00" WEST 60.00 FEET; THENCE NORTH 25°35'03" WEST 250.00 FEET; THENCE NORTH 51°58'10" WEST 275.00 FEET; THENCE NORTH 00°39'37" WEST 295.36 FEET; THENCE NORTH 87°58'06" EAST 2659.56 FEET; THENCE SOUTH 10°06'05" WEST 729.83 FEET; THENCE SOUTH 29°53'21" WEST 819.399 FEET; THENCE SOUTH 19°31'01" WEST 1734.940 FEET; THENCE SOUTH 32°22'19" WEST 316.854 FEET; THENCE NORTH 13°28'16" WEST 1.694 FEET; THENCE NORTH 20°15'00" WEST 430.000 FEET; THENCE NORTH 09°20'00" EAST 200.019 FEET, TO THE NORTHEAST CORNER OF LOT 5, ENSIGN DOWNS PLAT "H" A RECORDED, SUBDIVISION AS RECORDED IN THE SALT LAKE COUNTY RECORDER'S OFFICE; THENCE ALONG THE MOST NORTHERLY LINE OF SAID LOT 5 SOUTH 80°23'45" WEST 557.825 FEET CALCULATED (557.772 FEET RECORDED), SAID POINT ALSO BEING THE NORTHWEST CORNER OF LOT 5 ENSIGN DOWNS PLAT H, AS AMENDED, TO THE POINT ON A CURVE OF A 1392.850 FOOT RADIUS CURVE TO THE LEFT, BEARING TO THE RADIUS POINT BEARS NORTH 81°54'10" EAST; THENCE ALONG ARC OF SAID CURVE 77.411 FEET, THROUGH A CENTRAL ANGLE OF 03°11'04" TO THE POINT OF A 50.000 FOOT RADIUS CURVE TO THE LEFT, BEARING TO THE RADIUS POINT OF CURVE BEARS SOUTH 67°02'14" WEST; THENCE ALONG ARC OF SAID CURVE 117.410 FEET, THROUGH A CENTRAL ANGLE OF 134°32'32"; THENCE DEPARTING FROM SAID CURVE NORTH 88°21'15" WEST 363.553 FEET; THENCE NORTH 08°58'45" EAST 143.000 FEET TO THE POINT OF BEGINNING.

BEARING EQUATION-SOUTH 80°23'45" WEST (ALONG THE NORTHERLY BOUNDARY LINE OF LOT 5, ENSIGN DOWNS PLAT "H") EQUALS SOUTH 80°40'00" WEST ALONG THE STATE COORD. SOUTHERLY LINE OF LOT 108, NORTH COVE ESTATES PLAT "A"



P.U.D., BEARING BASE. BOTH BEARINGS REPRESENT THE SAME LINE, USING THE TWO DIFFERENT BASIS FOR BEARING METHODS. USING THE SECOND BEARING IS THE EQUIVALENT BEARING FOR ENSIGN DOWNS PLATS "A" THROUGH "F" AND PLAT "I" AND PLAT "K".

Less and excepting the following five (5) parcels:

Parcel 1: [Parcel D]

BEGINNING AT A POINT ON A NORTH-SOUTH LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN ENTRY 4673609 IN BOOK 6062, PAGES 2079 AND 2080 OF THE OFFICIAL RECORDS OF SALT LAKE COUNTY, SAID POINT ALSO BEING SOUTH 89°05'39" WEST 728.961 FEET AND SOUTH 02°48'52" WEST 474.077 FEET FROM THE NORTH QUARTER CORNER OF SECTION 30, TOWNSHIP 1 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE SOUTH 27°38'32" WEST 221.286 FEET; THENCE SOUTH 03°51'44" EAST 397.071 FEET; THENCE SOUTH 34°21'24" EAST 227.875 FEET TO SAID NORTH-SOUTH LINE; THENCE NORTH 03°51'44" WEST 782.095 FEET ALONG SAID LINE TO THE POINT OF BEGINNING.

BASIS OF BEARING BEING NORTH 89°59'13" EAST ALONG THE SOUTH LINE OF LOT 1, ENSIGN DOWNS PLAT "H", ACCORDING TO THE OFFICIAL RECORDED PLAT THEREOF ON FILE IN THE SALT LAKE COUNTY RECORDER'S OFFICE.

Parcel 2: [Parcel 2 and Parcel E]

A PORTION OF THE SOUTHEAST QUARTER OF SECTION 19, TOWNSHIP 1 NORTH, RANGE 1 EAST, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY BOUNDARY OF THAT CERTAIN PARCEL OF LAND DESCRIBE IN ENTRY 4673609, IN BOOK 6062, PAGE 2580 OF THE OFFICIAL RECORDS OF SALT LAKE COUNTY, SAID POINT ALSO BEING NORTH 00°39'37" WEST 270.896 FEET FROM THE SOUTH QUARTER CORNER OF SECTION 19, TOWNSHIP 1 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE NORTH 89°20'23" EAST 1616.805 FEET ALONG SAID NORTHERLY BOUNDARY TO THE NORTHEAST CORNER OF SAID PARCEL; THENCE NORTH 10°16'06" EAST 492.708 FEET; THENCE SOUTH 87°58'06" WEST 1709.298 FEET;

THENCE SOUTH 00°39'37" EAST 443.133 FEET TO THE POINT OF BEGINNING.

BASIS OF BEARING BEING NORTH 89°59'13 EAST ALONG THE SOUTH LINE OF LOT 1, ENSIGN DOWNS PLAT "H", ACCORDING TO THE OFFICIAL RECORDED PLAT THEREOF ON FILE IN THE SALT LAKE COUNTY RECORDER'S OFFICE

Parcel 3: [Parcel 5]

BEGINNING AT A POINT WHICH IS NORTH 21.144 FEET AND WEST 214.314 FEET FROM THE NORTH QUARTER CORNER OF SECTION 30, TOWNSHIP 1 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN; SAID POINT BEING ON A 518.591 FOOT RADIUS CURVE TO THE LEFT, BEARING TO CENTER OF CURVE BEARS SOUTH 36°30'24" EAST, THENCE 336.723 FEET ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 37°12'09"; THENCE NORTH 49°30'00" WEST 279.928 FEET; THENCE NORTH 13°00'00" WEST 60.000 FEET; THENCE NORTH 25°35'03" WEST 207.634 FEET; THENCE NORTH 54°00'00" EAST 313.233 FEET; THENCE SOUTH 36°30'24" EAST 423.353 FEET TO THE POINT OF BEGINNING.

BASIS OF BEARING BEING NORTH 89°59'13" EAST ALONG THE SOUTH LINE OF LOT 1, ENSIGN DOWNS PLAT "H", ACCORDING TO THE OFFICIAL RECORDED PLAT THEREOF ON FILE IN THE SALT LAKE COUNTY RECORDER'S OFFICE.

Parcel 4:

BEGINNING AT A POINT WHICH IS NORTH 340.873 FEET AND WEST 450.959 FEET FROM THE NORTH QUARTER CORNER OF SECTION 30, TOWNSHIP 1 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE NORTH 36°30'24" WEST 25.575 FEET; THENCE NORTH 37°57'04" EAST 238.538 FEET; THENCE NORTH 02°01'54" WEST 153.319 FEET; THENCE NORTH 87°58'06" EAST 316.882 FEET; THENCE SOUTH 38°00'00" WEST 296.024 FEET; THENCE SOUTH 61°46'15" WEST 295.643 FEET TO THE POINT OF BEGINNING.

Parcel 5: (Parcel "A", NCE Plat "B")

BEGINNING AT A POINT THAT IS SOUTH 00°16'15" EAST 1048.420 FEET AND NORTH 89°43'45" EAST 174.884 FEET FROM THE NORTH QUARTER

CORNER OF SECTION 30, TOWNSHIP 1 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN; THENCE NORTH 04°00'00" EAST 30.000 FEET; THENCE SOUTH 86°00'00" EAST 52.000 FEET; THENCE SOUTH 04°00'00" WEST 30.099 FEET; THENCE NORTH 87°30'50" WEST 5.538 FEET; TO A POINT ON A 733.193 FOOT RADIUS CURVE TO THE RIGHT, BEARING TO CENTER OF CURVE BEARS NORTH 02°29'10" EAST, THENCE 46.473 FEET ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 3°37'54" TO THE POINT OF BEGINNING.

Together with all or any portion of the above-described Parcels 1 and 2 hereafter acquired by Declarant or Robinson.

1.14. "Subdivision(s)" means the portion of the Property divided into Lots, each as a tract or parcel of real property for a single family dwelling, and for which a Subdivision plat is recorded in the office of the Salt Lake County Recorder.

1.15. "Unit(s)" is defined in Section 1.1, above.

2. **PROPERTY SUBJECT TO THIS DECLARATION.** The real property which is, by the recording of this Declaration, subject to the covenants and restrictions hereafter set forth and which, by virtue of the recording of this Declaration, shall be held, transferred, sold, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to this Declaration is the real property located in Salt Lake County, Utah, described in Section 1.13 of this Declaration.

3. **MUTUAL AND RECIPROCAL BENEFITS BETWEEN AND AMONG LOTS, OWNERS, DECLARANT AND THE PROPERTY.** All of the covenants, conditions, restrictions and agreements set forth in this Declaration are for the direct and mutual and reciprocal benefit of the Property and each and every Lot hereafter created from time to time and are intended to create reciprocal rights and obligations between and among the respective Owner(s) of each and all of the Lots and Declarant and/or Robinson as owner(s) of any portion of the Property not within a recorded Subdivision and to create a privity of contract and estate between and among the Owners of each and all of the Lots, and Declarant and/or Robinson as owner of any portion or all the Property not within a recorded Subdivision, their heirs, successors and assigns, and shall, as to the Owner(s) of each Lot and Declarant and/or Robinson as owner of such portion of the Property, their heirs, successors and assigns, operate as covenants running with the land for the benefit of all other Lots and the portion of the Property not within a recorded Subdivision including potential Lots within such portion of the Property.

4. **PERSONS BOUND BY THIS DECLARATION.** All covenants, conditions, and restrictions herein stated shall run with the land and all Owners, purchasers or occupants thereof shall, by acceptance of contracts or deeds, possession or occupancy, be

conclusively deemed to have consented and agreed with the present and future Owner(s) of each Lot and Declarant and/or Robinson, and with their respective successors and assigns to conform to and observe the following covenants, conditions, restrictions and stipulations as to the use thereof and construction of residences, structures and improvements thereon.

5. **DURATION.** The provisions of this Declaration shall be and remain effective for a period from the date hereof to January 1, 2016, at which time said covenants, conditions, restrictions, stipulations and agreements shall be automatically extended for successive periods of 10 years, unless, by an affirmative vote of ninety percent (90%) of the then eligible votes of Owners of Lots within recorded Subdivisions within the Property, it is agreed to amend or release said covenants in whole or in part and such agreement is evidenced by an appropriate written agreement specifying the restriction(s) amended or released, signed by the then Owners of said ninety percent (90%) of the eligible votes of Owners of lots within recorded Subdivisions within the Property, and filed with the Office of the County Recorder of Salt Lake County, Utah. Every purchaser or grantee of any Lot or any interest in any of the Property subject to this Declaration, by acceptance of a deed or other conveyance therefore, thereby agrees that the provisions of this Declaration shall be extended and renewed as provided in this Section.

6. **AMENDMENT.** These restrictions, conditions, covenants and agreements, however, may be changed, altered or amended at any time by the affirmative action of: (a) the Owners of ninety percent (90%) of the eligible votes of Owners of Lots within recorded Subdivisions within the Property, and (b) Declarant and Robinson, until such time as all of the Property is included in Subdivisions. Such changes shall be evidenced by the execution of an appropriate agreement in writing signed by the Owners of ninety percent (90%) of the eligible votes and, if applicable, Declarant and Robinson, and filed for record in the Office of the County Recorder of Salt Lake County, Utah.

Provided, however, that any amendment or release regarding paragraph 7.1 of this Declaration shall require a unanimous vote of all of the individual legal owners of all of (a) the Lots in all Subdivisions and (b) Declarant and Robinson, until such time as all of the Property is included in Subdivisions, Declarant and Robinson. Any such change shall be evidenced by the execution of an appropriate agreement in writing signed by one hundred percent (100%) of such Owners and, if applicable, Declarant and Robinson, filed for record in the Office of the County Recorder of Salt Lake County, Utah.

7. **RESTRICTIONS ON USE, CONSTRUCTION, LOCATION OF IMPROVEMENTS.**

7.1. **LAND USE.** No Lot shall be used except for residential purposes, for a single-family dwelling and accessory buildings, structures and facilities for one family, including domestic help not to exceed three (3) persons in the service of such family. Not more than one single family dwelling shall be built on any Lot. No Lot shall be divided or

subdivided to create any additional Lot or other parcel or site on which a single family dwelling may be built or located. In the event of any conflict between provisions of this Section and any other Section or provision of this Declaration, this Section shall predominate and prevail.

**7.2. BUILDING TYPE, HEIGHT, GRADING, SIZE.** No buildings shall be erected, altered, or permitted to remain on any Lot other than one detached single-family dwelling not to exceed three (3) stories, and a private garage for not less than two (2) nor more than four (4) vehicles and such accessory buildings, structures facilities and appurtenances as may be approved by the Committee. Depending upon the design of the dwelling structure, the Committee may, if it deems such action advisable, approve parking inside the dwelling structure for more than four (4) vehicles. Notwithstanding the foregoing, unless approved in writing by the Committee, the height of any building, structure, facility or appurtenance thereto, at any point, shall not be higher than thirty feet (30') above the Natural Grade of the Lot at such point. "Natural Grade" as used herein means the grade or slope of the Lot in its natural condition or, in the case where the Declarant modifies the grade before or immediately following the recordation of the Subdivision and as a part of the installation of the Subdivision improvements, the grade as contoured by the Declarant.

In the event that the building footprint area is on, over or immediately adjacent to a "Small Topographic Feature," as defined below, such Small Topographic Feature shall be ignored in calculating the height of the building structure, facility or appurtenance pursuant to this provision. In such event, the area affected by the Small Topographic Feature shall be deemed to have as a Natural Grade the grade which would be obtained by filling or removing the Small Topographic Feature to reflect the slope of the ground immediately adjacent to the Small Topographic Feature in question. A "Small Topographic Feature" is a natural hill or depression which (i) either rises above or falls below the natural slope of the land in the areas adjacent to such Small Topographic Feature and (ii) is both less than 200 square feet in area and less than 15 horizontal feet in both length and width.

Structures may be designed to include foundation and/or roof steps or other design elements intended to parallel the Natural Grade (including grade change areas when treated as provided above) in order to meet the height limitation.

The Natural Grade of a Lot shall not be modified except as expressly approved in writing by the Committee as a part of the final approval of the Final Plans (as defined herein below) for the construction of a dwelling on the Lot; provided, however, in no instance shall be Natural Grade be modified in a manner which would circumvent the thirty foot (30') height limitation defined in this Section 7.2.

The Committee shall have power to further limit the number of stories and the height of structures upon any and all Lots in order to achieve compatibility of proposed

design and improvements with the Natural Grade, slope, and features of the Lot, and to preserve the uphill and downhill views of other Lots in any Subdivision within the Property.

The Committee, in reviewing plans for proposed improvements, dwellings, buildings, structures, facilities and appurtenances, shall consider the impact of such upon the views, including but not limited to uphill or downhill views, from other Lots, and potential Lots in any portion of the Property not within a recorded Subdivision, in approving, denying or conditionally approving the proposed dwelling, buildings, structures, facilities, appurtenances or improvements, or in granting any variance or exception thereto pursuant to Section 8.5 hereof.

Every detached single family dwelling, exclusive of garages and open porches, erected on any Lot shall have a minimum above grade finished living area, excluding garages, of 2,500 square feet for a single level residence or 3,500 square feet for a multi-level or two story dwelling provided, however, that a two story dwelling shall have a minimum of 2,000 square feet on the first floor above grade. All construction shall be of new materials except for "used brick" or "used stone" or other used specialty materials specifically approved by the Committee.

**7.3. MOVING OF STRUCTURES.** No structure of any kind shall be moved from any other place to any Lot, except for new factory built or manufactured dwellings or accessory buildings specifically approved, prior to placement on the Lot, by the Committee.

**7.4. TEMPORARY STRUCTURES.** No trailer, basement, tent, shack or other out-building shall be placed upon any Lot or used at any time within any Subdivision as a temporary or permanent residence. Subject to ordinances of Salt Lake City, a trailer or other temporary building may be placed upon a Lot during construction solely for the purpose of facilitating construction management, but not as a residence or for overnight accommodation, and shall be removed from the Lot immediately upon completion of construction of the dwelling on the Lot.

**7.5. DILIGENCE IN BUILDING.** When the erection or remodeling of any residence or other structure is once begun, work thereon must be prosecuted diligently and completed within twelve (12) months, without deviation from the plans approved by or approvals given by the Committee. No building shall remain incomplete or any remodeling unfinished for any reason for a period in excess of twelve (12) months from the date physical construction commenced.

**7.6. COMPLIANCE WITH ZONING AND BUILDING ORDINANCES OF SALT LAKE CITY.** All excavation work, all foundations, all construction, and all buildings in any Subdivision shall be done, performed, placed or constructed, as the case may be, in, on or upon each Lot in accordance with the provisions of Salt Lake City Zoning

and Building Ordinances in effect when the buildings are constructed or remodeled. This provision shall not affect the applicability of the other provisions hereof.

**7.7. LOT AREA AND WIDTH.** No dwelling shall be erected or placed on any Lot having a "width" (as defined in this paragraph) of less than two-hundred feet (200') at the minimum building set back line. The "width" of a Lot shall be measured from property line to property line, parallel to the street, or in the case of a Corner Lot (as defined in Section 7.14 below) or a Lot along a rounded curve, the "width" shall be measured from the property line to the Road Easement line. No dwelling shall be erected or placed on any Lot having an area of less than seventy-five-thousand (75,000) square feet (including the area within the Road Easement).

**7.8. SET BACKS.** No dwelling house shall be located on any Lot nearer than fifty feet (50') to the Road Easement line. Such set back must comply with all applicable zoning regulations and must be approved by the Committee prior to the start of construction. No dwelling shall be located on a Lot nearer than forty feet (40') to any interior side lot line. A twenty foot (20') minimum side yard shall be permitted for a garage or other permitted accessory building or structure located twenty feet (20') or more to the rear of the main dwelling house. No dwelling shall be located on any Lot nearer than eighty feet (80') to the rear lot line. Rear yard set backs on any Lot containing an "undevelopable area" must further comply with all Salt Lake City requirements for such Lot. Detached garages or other permitted accessory buildings or structures may be located within thirty feet (30') of the rear lot line on Lots with no other Lot(s) or potential Lot(s) within the Property adjoining on the rear, or within forty feet (40') of the rear lot line of Lots where other Lot(s) or potential Lot(s) within the Property adjoin(s) the rear, so long as such buildings do not encroach upon any easements or violate any Salt Lake City requirements. The location of all dwellings and any permitted detached garage or other accessory buildings or structures must be approved in writing by the Committee prior to the start of construction and must comply with all applicable Salt Lake City regulations.

For the purpose of this covenant, eaves or steps and open porches without roofs shall not be considered as a part of a building; provided, however, that this shall not be construed to permit any portion of any building on any Lot to encroach upon another Lot.

**7.9. DRAINAGE, UTILITY AND ROAD EASEMENTS.** Easements and rights of way over portions of the Property as shown on any Subdivision plat, have been or shall be dedicated as drainage and/or utility easements for the use of Salt Lake City, public or private utility companies or entities, and the Association for the erection, construction, maintenance and operation therein or thereon of drainage conduits or pipes and for pipes, conduits, poles, wires and other means of conveying to and from the Lots and potential Lots in other portions of the Property, gas, electricity, power, water, telephone and telegraph services, sewage and other services for convenience of Owners of Lots and potential Owners of potential Lots in other portions of the Property.

Easements for a private, common access road or street (within the area which is designated "Road Easement" area on any Subdivision plat) shall be granted to the Association for the use of the Association, its members, and their guests, and to Declarant and Robinson pursuant to Section 15.4 below. The private access road or street, including street surface and curbs, shall be maintained by the Association. Each Owner shall maintain (or if a dwelling is built, landscape), consistent with the provisions of Section 7.11, that portion of the Lot outside of the hard surface street improvements but within the Road Easement, including drainage swales, drainage ways and drainage facilities. No driveway, path or other structure shall be placed across any drainage swale unless the Owner shall first install in the drainage swale, at the flow line of the drainage swale and under such driveway, path or other structure, in accordance with the engineering and design of the storm drain system for the Subdivision, a pipe or other conduit of sufficient size and capacity to convey the storm drainage past such driveway, path or other structure. The size, material, plans and placement of all such pipes and/or conduit must be approved by the Committee prior to installation. Nothing shall be done or allowed which would impede drainage in the drainage swales or drainage ways adjacent to the street surface or which would impede or interfere with drainage facilities. The Association shall regularly inspect all drainage swales and shall remove therefrom or otherwise correct any obstruction or other situation which may exist with potential to impede drainage within any drainage swale. The cost of such removal or correction shall be assessed to the Owner of the Lot from which such obstruction or situation has been removed.

**7.10. UNDEVELOPABLE AREA; OPEN SPACE EASEMENTS:** Each recorded Subdivision plat may include areas which are identified as "Undevelopable Area". Such areas have been or shall be dedicated to Salt Lake City as perpetual open space and vegetation preservation easements. Within these areas, no fence, no structure, new planting or other material of any nature whatsoever shall be placed or permitted to remain, nor shall any activities be undertaken which shall interfere with the natural vegetation, the established slopes, or the existing natural condition of the land, or damage or interfere with the established slope ratios, create erosion or sliding problems or retard the flow of water through any drainage channels. All such areas shall be kept clean and clear of any trash or debris by the owner of the Lot within which such area is located.

**7.11. LANDSCAPING; NATURAL VIEWS.** On all vacant, unimproved Lots and until construction of an approved dwelling thereon commences, all vegetation shall be maintained in its present, natural state (consisting primarily of scrub oak) or, at the Owner's option, enhanced by landscaping with trees, lawns, shrubs or other plantings which shall be properly nurtured and maintained or replaced at the Owner's expense. Specifically, the natural grasses and weeds located within the Streetscape Area (as defined below) shall be periodically maintained, mowed or trimmed in order to minimize the fire hazard and to enhance their appearance. The Owner of a Lot at such Owner's expense shall perform such maintenance, mowing or trimming within ten (10) days of receipt of written notice from the Association. If such maintenance is not performed within ten (10) days of such notice, the Association may undertake to do the work and recover payment from the



Owner for the costs incurred by such action, and record a lien against the Owner's Lot to secure the repayment of all such costs.

Upon completion of a dwelling or other structure approved by the Committee, the street frontage of all Lots to a minimum depth of sixty-three (63) feet from the hard surface street improvements (hereafter the "Streetscape Area") shall be landscaped with the natural scrub oak and trees, lawns, shrubs, or other plantings which shall be properly nurtured and maintained or replaced at the Owner's expense so as to create an attractive Streetscape Area throughout the Property. Such landscaping and maintenance within the Road Easement property shall be consistent with the provisions of Section 7.9.

Owners are not required to landscape those portions of the Lots lying outside of the Streetscape Area, but as a minimum, Owners must maintain the remainder of each Lot in the same manner as a vacant lot shall be maintained as provided in the first paragraph of this Section 7.11 with the additional requirement that such area outside of the Streetscape Area be maintained free of weeds and sprinkled if necessary in order to maintain the natural vegetation in an attractive and fire safe manner.

Any area or portion of a Lot disturbed by construction (hereinafter the "Construction Area") and on which a building or structure (including tennis court or swimming pool) is not placed shall be reclaimed with natural vegetation or landscaped and planted with trees, lawns, shrubs or other plantings which shall be properly nurtured and maintained or replaced at the Owner's expense. Reclamation and/or landscaping of the Construction Area must be commenced within one month of the date the house is ready for occupancy (or by the next succeeding April 30 of the following year if a house is ready for occupancy between October 15 and February 15) and must be materially completed within eight months of the date the house is approved for occupancy.

Gravel, cinder or other "no plant" areas shall not be permitted in front yards, side yards, or the Streetscape Area except as otherwise provided in Section 7.9 above.

All landscaping must be in accordance with the provisions of this Declaration, including approval as required by Section 8.2.

It is recognized by the Declarant that one of the important and valuable amenities attendant to each Lot is the natural view from the Lot afforded by the location and character of the individual Lot. It is the intention of the Declarant that these natural views be maintained, and even enhanced, to the extent possible while allowing the orderly development of an attractive residential community including appropriate buildings, lawns, trees, shrubs and other landscaping. All trees and other landscaping approved by the Committee prior to installation shall be permitted to remain, so long as such trees and other landscaping are installed in accordance with the approved landscaping plan and do not obstruct the view(s) (uphill, downhill, or otherwise) or otherwise interfere with the

reasonable use and enjoyment of the Owners or occupants of any other Lot(s) or potential Lot(s) within the Property. As to the restrictions set forth in the preceding sentence, the Board of Directors of the Association shall, in its sole and exclusive judgment, determine if any tree(s) or other landscaping are in violation and may, in the event of a violation, request, in writing, that the Owner of the Lot on which such tree(s) or other landscaping are located remove or trim the same to a height that corrects said violation, whereupon such Owner shall do so within thirty (30) days. In the event such Owner fails to comply with such written request, the Association shall be empowered to trim such tree(s) or other landscaping to a height that corrects said violation, recover payment from the Owner for the costs incurred by such action, and record a lien against the Owner's property to secure the repayment of all such costs.

The Declarant recognizes that, by its very occurrence, development will diminish and interfere with the original natural views afforded by the location and character of the Property. However, attractive well-planned landscaping and trees add to the overall attractiveness and value of a community and largely mitigate the impacts of development. The intent of the restrictions contained in this Section 7.11 is not to prohibit or unnecessarily limit attractive development and landscaping, but rather, to encourage development and landscaping which is in harmony with, or improves upon, the natural vista and natural views, and enhances the natural appeal of the land.

**7.12. PROHIBITION AGAINST SOIL EROSION AND RUNOFF.** It shall be the responsibility of each Owner of a Lot to direct site work relative to such Lot in a manner to minimize erosion and runoff. Construction shall be conducted in such a manner as to maintain all soils on site and prevent the movement of earth, materials or construction debris onto neighboring property, including public streets, or into the storm drainage system.

**7.13. SOILS, GEOTECHNICAL REQUIREMENTS.** Soils and geotechnical reports for the property have been issued by Dames and Moore and supplemented by reports from Sergeant, Hauskins & Beckwith. Said reports have been filed with the Salt Lake City Planning Commission. All requirements of Salt Lake City and these soils and geotechnical reports must be complied with in the construction of all buildings, structures and facilities on all Lots. The design, and subsequently, the actual construction, of all footings and foundations must be certified by a qualified engineer registered with the State of Utah. The Declarant makes no warranties of any kind relative to soils or geotechnical matters.

**7.14. SIGHT DISTANCE AT INTERSECTION.** No fence, wall, hedge, shrub or other planting which obstructs sight lines at elevations between two feet (2') and six feet (6') above the roadways shall be placed or permitted to remain on any Corner Lot (defined as a Lot that fronts on the intersection of two or more streets) within the triangular area formed by the street pavement lines and a line connecting them at points twenty-five feet (25') from the intersection of the street pavement lines, or in the case of

a rounded property corner, from the intersection of the street pavement lines so extended. The same sight-line limitations shall apply on any Lot within ten feet (10') from the intersection of a street pavement line with the edge of a driveway. No tree shall be permitted to remain within such distances of such intersections unless (a) the caliper of the trunk of such tree does not exceed ten inches (10") and (b) the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

## 8. ARCHITECTURAL AND STRUCTURAL CONTROL COMMITTEE.

8.1. MEMBERS; QUORUM. An Architectural and Structural Control Committee (hereinafter "the Committee"), consisting of three (3) members is hereby created. The Declarant may fill vacancies in the Committee and remove members thereof at its pleasure; provided, however, at the time that all of the Property is included within recorded Subdivision plats and ninety percent (90%) of the Lots in said Subdivisions have been sold (either deeded or sold under contract of sale), then upon written designation by the Owners of more than fifty-percent (50%) of the eligible votes, such Owners may designate a person to become a member of said Committee and the Declarant shall appoint such person to the Committee, and if necessary, shall remove from said Committee an existing member in order to create a vacancy for the new appointment; provided further, however, that two persons designated by the Declarant shall always remain as members of the Committee if the Declarant or the Committee so desires.

The functions of the Committee shall be, in addition to the functions set forth elsewhere in this Declaration, to pass upon, approve or reject any plans or specifications for all structures and landscaping to be erected or remodeled on Lots in any Subdivisions within the Property, so that all structures and landscaping shall conform to the restrictions contained herein and to the general development plans of the Declarant and of the Committee, for the benefit, improvement and development of the Property. In exercising its duties as defined in this Declaration, the Committee shall use as its standards for approving or rejecting any plans or specifications the criteria contained in this Declaration, with particular attention to the impact of the proposed structure(s) or landscaping on the uphill and downhill views and the harmony of the development of all of the Property. In following the guidelines contained in this Declaration, the Committee shall act reasonably and not arbitrarily in approving or denying plans brought before it, and, in the case of a denial, shall indicate in writing the basis for the denial. Nothing in this paragraph shall be construed as authorizing or empowering said Committee to waive any restrictions which are set forth in this Declaration except as herein specifically provided.

The Committee may act by any two (2) of its members, and any authorizations, approval or action taken by the Committee must be in writing signed by a minimum of two (2) members of said Committee.

The initial members of the Architectural and Structural Control Committee shall be:

Christopher F. Robinson  
139 East South Temple, Suite 310  
Salt Lake City, Utah 84111

Scott R. Turville  
139 East South Temple, Suite 310  
Salt Lake City, Utah 84111

Glen A. Lloyd  
511 East 300 South  
Salt Lake City, Utah 84111

**8.2. ARCHITECTURAL AND STRUCTURAL CONTROL PROCEDURE, APPROVAL REQUIRED.** No building or structure, including a dwelling, garage, driveway (pursuant to Section 7.9), fence, wall, tennis court or swimming pool, or other facility, shall be erected, remodeled or placed on any Lot until the written approval of location, height, design, materials, colors of materials, harmony with existing structures, and landscaping plan has first been obtained from the Committee. No construction of any kind or nature on any of the Lots shall be commenced until curb grade has been established. Except for approval of a variance or exception consistent with the criteria of Section 8.5, approval by the Committee shall not affect, or constitute a waiver of, the rights of any Person, Owner, Declarant or Robinson who may enforce the provisions of this Declaration.

Owners shall first submit to the Committee, in duplicate, Preliminary Plans consisting of: (a) a site plan including topographic information and a footprint of all proposed structures or improvements, including fences, walls, tennis courts, swimming pools, and garages and (b) elevations of the front, rear, and both sides of the structure(s) (hereafter the "Preliminary Plans"). The Committee's approval or disapproval of the Preliminary Plans shall be conceptual only and shall be issued to the Owner/Applicant in writing, signed by a majority of its members within fifteen (15) days after the Committee's receipt of the Preliminary Plans and written application for approval by Committee of the same.

After obtaining approval of the Preliminary Plans pursuant to the previous paragraph, the Owner/Applicant shall submit, in duplicate, final "to-be-constructed" plans, (including the items contained in the Preliminary Plans as modified in final form), a landscaping plan, materials and colors of materials to be used and/or samples, as the case may be, and any information required by Section 8.3. (hereafter the "Final Plans"). The Committee's approval or disapproval of the Final Plans shall be issued to the Owner/Applicant in writing, signed by a majority of its members within fifteen (15) days after the Committee's receipt of the Final Plans and written application for approval. The application will be deemed received only when accompanied by two complete sets of the

**Final Plans.** The Committee shall not permit any oral modification of the Final Plans, and all Final Plans so submitted will be evaluated based solely on the submitted Final Plans.

**8.3. ADDITIONAL ARCHITECTURAL GUIDELINES.** In addition to those requirements set forth elsewhere in this Declaration, the following architectural guidelines shall apply to all Lots:

(a) **Harmony in Building.** The exterior material of all homes shall be either brick, stone, wood, stucco or other material approved by the Committee, or a combination thereof. The roofing materials shall be either tile, treated wood shingles or other fire resistant material approved by the Committee, in approved colors.

(b) **Fences and Walls.** All fences and walls shall be in conformity with Salt Lake City ordinances. All fence and wall materials and placement must be harmonious with the natural environment and must be approved by the Committee prior to erection. No fence or wall shall be erected on any Lot nearer to the street improvements than the Road Easement line. No fence or wall shall be higher than six feet (6'). Any fence or wall erected within the Streetscape Area shall be attractively landscaped and maintained by the Owner. The Committee must approve the landscaping as well as the fence or wall prior to any construction or erection of said fence or wall.

(c) **Exterior Lighting.** The design of each home shall include exterior lighting. All such exterior lighting shall require the prior approval of the Committee.

(d) **Samples.** Prior to the construction of any building or structure, appropriate building material samples and material colors must be provided to the Committee in order to determine if said materials comply with the terms and intent of these covenants, conditions and restrictions.

**8.4. ARCHITECTURAL AND STRUCTURAL CONTROL COMMITTEE DECISION; LIABILITY.** All decisions of said Committee shall be final, and neither said Committee, nor its members, nor any designated representative shall be subject to any liability therefor. Any errors or omissions in the design of any building or landscaping, and any violations of city ordinances are the sole responsibility of the Lot Owners and/or their designer, architect or builder. The Committee's review of plans shall in no way be concerned with the structural or mechanical integrity or ability of the building or with architectural or structural soundness thereof. Construction of any structure or improvement on a Lot in accordance with approval of the Committee shall constitute a waiver by the Lot Owner of any claim or cause of action against the Committee and/or its members that the approval of the Committee or any requirements or conditions of the approval are contrary to or inconsistent with the provisions of this Declaration.

**8.5. VARIANCE FROM OR EXCEPTION TO PROVISIONS OF THIS DECLARATION.** Subject to the provisions of Section 7.1, which provisions may not be waived, excepted or granted variance from, the Committee may, after receiving written application stating the basis therefore, and upon written approval stating the basis therefore, at any time, grant variance from or exception to any of the requirements of Sections 7.2, 7.5, 7.8 and 8.3 of this Declaration, if the Committee finds, based upon the application or such further evidence or investigation as it may require: (a) the strict application of any provision would result in exceptional practical difficulties to, or undue hardship upon, the Owner, and (b) strict application of the provision or restriction is unnecessary to carry out the general purpose of this Declaration, and (c) the variance or exception would not be detrimental to any other Lot or potential Lot or the uphill or downhill views of any other Lot or potential Lot within the Property. Provided, however, ten (10) days prior to the granting a variance, the Committee shall deliver written notice to the Owners of each adjacent Lot (including Lots immediately across the street). The notice shall contain a description of the variance requested, the applicant's basis therefor, and an explanation of the Committee's findings or intentions with respect to the requested variance. The ten (10) day notice requirement herein contained shall be deemed to be delivered on the day it is deposited with the United States certified mail, postage prepaid, return receipt requested, or on the day it is hand delivered with a certification of delivery signed by the Owner, his agent, or representative. Any Owner, may, if such Owner desires, waive in writing the ten (10) day notice requirement. Notwithstanding the foregoing, the Committee, in its sole discretion, shall grant or deny any variance without the consent or approval of any Lot Owner. The notice requirement contained herein is intended to give the surrounding Lot Owners the opportunity to make their opinions known to the Committee.

**8.6. ENFORCEMENT BY COMMITTEE.** The Committee may institute in its own name any suit or suits necessary in order to obtain a decree for specific performance or any restraining order necessary to obtain compliance with or restrain deviation from the Final Plans approved or any other approvals given by the Committee. Should any suit be instituted, the affected Owner agrees that if the court finds in the Committee's favor, such Owner shall pay reasonable attorneys' fees for the services of the Committee's attorney as such fees may be fixed by the court.

## **9. NUISANCES.**

**9.1. NUISANCES.** No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done thereon which may be an annoyance or nuisance to the neighborhood.

**9.2. PETS.** No barn, coop, shed, sty or building of any type shall be constructed for the purpose of housing pigs, cows, sheep, goats, horses, rabbits, pigeons, poultry, or any other livestock, and none of the foregoing shall be kept, maintained or permitted at any place within the limits of the Property, excepting only a reasonable

number of common household pets. Pets shall at all times be under proper control and supervision of their owners.

9.3. **STORAGE.** No storage of any articles, materials, equipment or vehicles (recreational or otherwise, including but not limited to boats, campers and trailers) of any nature is permitted in the front yard or side yard portion of any Lot, except that regularly used passenger cars properly licensed and in running order may be parked upon driveway areas. Trailers, trucks, campers, boats, and all types of accessory equipment are permitted to be stored or repaired only in garages.

9.4. **SIGNS.** Except for signs displayed by the Declarant or homebuilders during the sales and construction period of the development, no signs, other than name plates, shall be displayed to the public view on any Lot except one sign not exceeding five square feet advertising the availability for sale or lease of a Lot and the improvements thereon.

9.5. **DRILLING AND MINING.** There shall be no oil drilling, mining, quarrying or related operations of any kind permitted upon any Lot.

9.6. **RUBBISH.** No rubbish shall be stored or allowed to accumulate anywhere in the Property, except in sanitary containers appropriately shielded from public view.

9.7. **TRANSMITTING AND RECEIVING EQUIPMENT.** No external radio, citizen's band, ham radio or any other transmitting and/or receiving antennas or equipment shall be placed upon any structure or Lot; provided, however, a television antenna or satellite dish receiver may be placed in a yard at a secluded location, at a height, and in a manner specifically approved by the Committee in writing prior to erection. Any antenna or receiver must be shielded from view from streets and other Lots.

9.8. **CONSTRUCTION DEBRIS.** All Owners shall properly maintain their Lots during the construction period so as to insure that no "spoils" or any other debris from construction shall be permitted to blow or otherwise be deposited upon any adjoining Lot or any other private or Common Property or street right-of-way. Owners shall take whatever action is necessary to prevent run-off onto, and resultant erosion of, adjoining property. Owners agree that the Declarant and or the Association shall be empowered to clean up any and all "spoils" or construction debris which are located upon any adjoining property resulting from activities of an Owner, his builder, or any other person employed or otherwise controlled by an Owner, and record a lien against the Owner's property to secure the repayment of all sums expended by the Association or by the Declarant in cleaning up and removing said "spoils" and debris from adjoining public or private property if same is not voluntarily cleaned up and removed by the Owner within 48 hours of written notice from the Declarant, another Owner, or the Association, identifying the required clean up and removal work.

10. **ACCEPTANCE OF RESTRICTIONS.** All Owners and purchasers of Lots, by acceptance of contracts or deeds for any Lot or any portion thereof, and all occupants, by their possession or occupancy, shall thereby be conclusively deemed to have consented and agreed to all provisions of this Declaration.

11. **MANNER OF VOTING.** In voting, pursuant to the provisions of this Declaration, the Owner of each Lot shall be entitled to a vote equal to the number of Unit(s) or fractional Unit designated from time to time in Supplements to this Declaration pursuant to Sections 14.3, 15.1, 15.2, and 15.3. Any amendment or repeal of this Declaration resulting from any such vote shall be evidenced by an appropriate written instrument signed by the required number of Owners, which instrument shall be acknowledged and promptly recorded in the County Recorder's Office of the County of Salt Lake, State of Utah.

12. **VIOLATIONS OF RESTRICTIONS, PENALTIES.** Violation of any of the covenants, conditions, restrictions, or agreements herein contained shall give the Declarant, until Declarant has sold all the Lots, and the Association and their successors and assigns, the right to enter upon any Lot and any property on which said violation or breach exists, and to summarily abate and remove at the expense of the Owner, any erection, thing or condition that may be or exist thereon contrary to the provisions hereof, without being deemed guilty of trespass. The result of every action or omission whereby any covenant, condition, restriction or agreement of this Declaration is violated, in whole or in part, is hereby declared to be and constitute a nuisance and every remedy allowed by law against a nuisance, either public or private, shall be applicable against such condition. Such remedy shall be deemed cumulative and not exclusive.

13. **ASSOCIATION MEMBERSHIP.** The Owner of each Lot shall be deemed to have a membership in the Association. The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. In the event of multiple Owners of a Lot, votes and rights of use and enjoyment shall be as provided in this Declaration and in the By-Laws. Membership shall be appurtenant to and may not be separated from ownership of any Lot within a recorded Subdivision within the Property. The ownership of each Lot shall include, and there shall pass with each Lot as an appurtenance thereto, whether or not separately described, membership in the Association.

14. **ASSESSMENTS.**

14.1. **PURPOSE OF ASSESSMENT.** The assessments provided for herein shall be used for the general purposes of providing services for the convenience, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of Lots contained in recorded Subdivisions within the Property, including but not limited to guard services, snow removal, trash removal, landscaping and maintenance of Common Properties, streets, entry facilities, water, sewer, storm drain and utility systems, curb,



gutter, sidewalk, fences, landscaping and other real and personal property and/or easements owned by the Association, all as may be more specifically authorized from time to time by the Association.

**14.2. CREATION OF THE LIEN AND PERSONAL OBLIGATION FOR ASSESSMENTS.** Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association: (a) annual assessments or charges; (b) special assessments, such assessments to be established and collected as hereinafter provided; and (c) specific assessments against any particular Lot which are established pursuant to the terms of this Declaration, including, but not limited to, reasonable fines as may be imposed in accordance with the terms of this Declaration or the By-Laws. All such assessments, together with late charges, interest at eighteen percent (18%) per annum (or such lower rate fixed by the Association, or so as not to exceed the maximum legal rate), costs, and reasonable attorneys' fees actually incurred, shall be a charge on the land and shall be a continuing lien upon the Lot against which such assessment is made. Each such assessment, together with late charges, interest, costs, and reasonable attorneys' fees actually incurred, shall also be the personal obligation of the Owner(s) of such Lot at the time the assessment fell due. Each Owner shall be personally liable for his or her portion of each assessment coming due while he or she is the Owner of a Lot, and his or her grantee(s) shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance; provided, however, the liability of a grantee for the unpaid assessments of its grantor shall not apply to any bona fide first Mortgage holder until such first Mortgage holder or other person takes title through foreclosure proceedings or deed in lieu of foreclosure.

Assessments shall be paid in such manner and on such dates as may be fixed by the Association, which may include, without limitation, acceleration, upon ten (10) days' written notice, of the annual assessment in any case where any installment is delinquent. Unless otherwise provided by the Association, the assessment shall be paid in advance in quarterly installments, one-fourth of the total annual assessment on January 1, April 1, July 1, and October 1 of each year.

**14.3. ALLOCATION OF ASSESSMENT AMOUNT.** The total amount assessed by the Association to the Owners/members shall be allocated among the total number of Lots based upon Unit(s) or fractional Unit(s). The percentage of the total assessment allocated from time to time to each Lot shall be the percentage that the Unit(s) or fractional Unit assigned to the Lot bears to all Unit(s) assigned to all Lots in all Subdivisions recorded within the Property. The percentage of the total assessment assigned to each and all Lots shall be indicated in a Supplement to this Declaration filed with each Subdivision plat as provided in Section 15 of this Declaration.

**14.4. ANNUAL BUDGET; COMPUTATION OF LOT ASSESSMENT.** It shall be the duty of the Association to prepare a budget covering the estimated costs of operating the Association during the next calendar year, which shall include anticipated

operating costs and a capital contribution or reserve for repair and/or replacement of physical improvements in accordance with a capital budget separately prepared. The Association shall cause the budget and the assessments to be levied against each Lot for the following year to be delivered to each member at least thirty (30) days prior to the end of the current fiscal year. The budget and the assessment shall become effective unless disapproved by a Majority at a meeting of the Owners held prior to December 31 of the current year. Notwithstanding the foregoing, however, in the event the membership disapproves the proposed budget or the Association fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined, as provided herein, the budget in effect for the then current year shall continue for the succeeding year(s). Within ninety (90) days following the end of each calendar year the Association shall prepare a reconciliation of the prior year's operating budget and actual receipts and expenditures and shall deliver such reconciliation to each Owner in written form. If the Association has surplus funds in its operating budget in excess of Five Thousand Dollars (\$5,000) on hand from prior year(s), the total of such funds on hand shall be credited pro-rata among the Lots subject to assessment against the next installment(s) of assessments due. If the amount of surplus funds is less than Five Thousand Dollars (\$5,000), the Association shall apply the funds to the next future operating budget in determining the annual assessment amount.

**14.5. SPECIAL ASSESSMENTS.** In addition to the other assessments authorized herein, the Association may levy special assessments in any calendar year. So long as the total amount of special assessments allocable to each Unit does not exceed One Thousand Dollars (\$1,000.00) (plus an annual compounded escalator of 5% per annum every year commencing in 1993) in any one fiscal year, the Association may impose the special assessment. Any special assessment which would cause the amount of special assessments allocable to any Unit to exceed this limitation shall be effective only if approved by a Majority. Special assessments shall be paid as determined by the Association, and the Association may permit special assessments to be paid in installments extending beyond the calendar year in which the special assessment is imposed.

**14.6. LIEN FOR ASSESSMENTS.** All sums assessed against any Lot pursuant to this Declaration, together with late charges, interest, costs, and reasonable attorneys' fees actually incurred, as provided herein, shall be secured by a lien on such Lot in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such Lot, except for (a) liens of real property ad valorem taxes; and (b) liens for all sums unpaid on a bona fide first Mortgage or on any Mortgage to Declarant duly recorded in the office of the County Recorder of Salt Lake County, Utah and all amounts advanced pursuant to such Mortgage and secured thereby in accordance with the terms of such Mortgage.

All other persons acquiring liens or encumbrances on any Lot after this Declaration shall have been recorded in the records of the Salt Lake County Recorder's Office shall be deemed to consent that such liens or encumbrances shall be inferior to

future liens for assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances.

**14.7. EFFECT OF NONPAYMENT OF ASSESSMENTS; REMEDIES OF THE ASSOCIATION.** Any assessments which are not paid when due shall be delinquent. Any assessment delinquent for a period of more than ten (10) days shall incur a late charge in an amount, as the Association may from time to time determine, not less than five percent (5%) nor more than ten percent (10%) of the amount due. The Association shall cause a notice of delinquency to be given to any Owner who has not paid within ten (10) days following the due date. If the assessment is not paid within thirty (30) days, a lien, as herein provided, shall attach and, in addition, the lien shall include the late charge, interest at the rate of eighteen percent (18%) per annum or such lower rate so as not to exceed the maximum legal rate, on the principal amount due, and all late charges from the date first due and payable, all costs of collection, reasonable attorneys' fees actually incurred, and any other amounts provided or permitted by law. In the event that the assessment remains unpaid sixty (60) days after the due date, the Association may, as the Association shall determine, institute suit to collect such amounts and/or to foreclose its lien. Each Owner, by acceptance of a deed or as a party to any other type of a conveyance, vests in the Association or its agents the right and power to bring all actions against him or her, personally, for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The lien provided for in this paragraph shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage, or convey the same. No Owner may waive or otherwise except liability for the assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the Lot. No diminution or abatement of assessment shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration or the By-Laws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action or inaction by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay assessments being a separate and independent covenant on the part of each Owner.

All payments made by Owners shall be applied first to costs and attorneys' fees, then to late charges, then interest and then to unpaid assessments.

**14.8. DATE OF COMMENCEMENT OF ASSESSMENTS.** An assessment for the final quarter of 1991 shall be due from Owners of then-existing Lots on October 1, 1991 in an amount determined by the Association not to exceed one-fourth of the total amount of the 1992 budget. Notice of the assessment due October 1, 1991 shall be sent by mail or given personally on or before September 15, 1991 to Owner(s) of then-existing Lots in then existing Subdivision(s) within the Property.

The first full annual assessments for all then-existing Lots subject to assessment under this Declaration shall be for the calendar year 1992. Lots which are created, by filing of a subdivision plat, after January 1, 1992 shall be subject to pro-rata assessment, based on the date upon which the subdivision plat is recorded in the Salt Lake County Recorder's office. The assessments for 1992 and subsequent years shall be due and payable quarterly or in a manner and on a schedule as the Board of Directors may otherwise provide as set forth in Section 14.2.

**14.9. ASSESSMENT OBLIGATION OF DECLARANT.** Declarant, on behalf of itself and its successors and assigns, covenants and agrees to pay the full amount of the assessments provided herein for each Lot it owns.

**14.10. SPECIAL ASSESSMENT AGAINST A PARTICULAR OWNER OF LOT.** In the event an Owner of any Lot shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds (2/3) of the Board of Directors, shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain, and restore the Lot, and the exterior of the buildings and any other improvements erected thereon. The costs of such repair, maintenance and/or restoration shall be added to and become part of the annual assessment to which such Lot is subject; and said assessment shall be enforced in the same manner as provided for in Section 14.7.

**14.11. SUBORDINATION OF THE LIEN TO MORTGAGES.** The lien of the assessments provided for herein shall, as to each Lot, be superior to all other liens and encumbrances on such Lot, save and except (a) liens of real property ad valorem taxes, and (b) liens for all sums unpaid on a bona fide first Mortgage or on any Mortgage to Declarant duly recorded in the office of the County Recorder of Salt Lake County, Utah and all amounts advanced pursuant to such Mortgage and secured thereby in accordance with the terms of such Mortgage.

**14.12. NO ASSESSMENTS FOR INITIAL SUBDIVISION IMPROVEMENTS.** Neither the Association nor any of its Owners shall be assessed to pay for any capital expenditures for initial Subdivision improvements, including any entrance and/or security station, unless otherwise agreed to in writing. Pursuant to Section 16 below, the Declarant shall bear the cost of installing and construction all initial Subdivision improvements and other Common Properties/facilities. The Association and its Owner members shall perpetually maintain and operate such improvements and Common Properties, subject to Declarant's warranty in Section 16.1. below.

**14.13. ASSESSMENTS FOR THE CAPITAL IMPROVEMENTS RESERVE.** Pursuant to Section 14.4 above, the Association may assess, as a part of its annual assessment, a capital contribution to fund an accumulating reserve for present and future repairs and/or replacement of the physical improvements (hereafter the "Capital Improvements Reserve"). The Association's annual assessment on its Owners for the

Capital Improvements Reserve shall be calculated on a basis which does not assess the first Owners in the earliest Subdivision(s) to be recorded with higher assessments than they would have to pay if all the Property were included in Subdivisions at the same time.

**15. RECORDATION OF SUBDIVISION PLATS, EXPANSION OF THE ASSOCIATION AND SUPPLEMENTS TO THIS DECLARATION.**

**15.1 SUBDIVISIONS; OPTION TO EXPAND.** Declarant intends to develop Subdivisions in the overall North Cove Estates project, within the Property, from time to time as Declarant deems appropriate. Except for the specific "Grandfather Provision" contained herein affecting some aspects of the Lots within North Cove Estates Plat "A", each Subdivision within the Property shall be subject to the covenants, conditions and restrictions contained herein. All Owners of all Lots in all Subdivisions within the Property shall be members of the Association.

Accordingly, Declarant and/or Robinson hereby reserve(s) the right and option at its/their sole election to record Subdivision plats with the Salt Lake County Recorder's office on the Property and to expand the Association, from time to time and without the consent of any member, Owner, or Mortgagee; provided, however that such Subdivision plats and such expansion comply with the following limitations and restrictions (hereafter the "Limitations"):

- (a) All Subdivisions shall conform to and comply with all applicable zoning ordinances;
- (b) If development does occur in the Property, it shall occur pursuant and subject to the covenants, conditions, restrictions, and limitations contained in this Declaration;
- (c) The minimum Lot size shall be seventy-five thousand (75,000) square feet (except in the case of Plat "A", as otherwise provided above);
- (d) The maximum number of Lots shall be fifty-one (51);
- (e) Assessment and Voting Unit(s), or fractional Unit(s), shall be allocated to each Lot based upon approximate length of frontage of a Lot on the private Road Easement. Alternatively, at Declarant's election, Unit(s) shall be allocated on the basis of Unit(s) allocated to Lots of similar size;
- (f) If all the Property is developed, there will be a minimum of forty-three (43) Assessment and Voting Units;
- (g) As each Subdivision plat is recorded, a Supplement to this Declaration shall be recorded pursuant to Section 15.3. below.

The option to expand may be terminated only upon the recordation by the Declarant and Robinson of an instrument relinquishing such option.

Declarant presently anticipates that the expansion of the membership of the Association will occur by the filing of four (4) Subdivision plats (NORTH COVE ESTATES PLATS "A", "B", "C", and "D") and that there will be a total forty-eight (48) lots within said plats. Exhibit "A" attached hereto and by this reference made a part hereof is a conceptual drawing and configuration of the four said Subdivision plats.

NOTWITHSTANDING the foregoing paragraph, Declarant and/or Robinson specifically reserve(s) the following rights with respect to the Property, all subject to the Limitations as defined herein:

- (a) To file no Subdivision plats or any number such plats and Supplements to this Declarations; the Declarant and/or Robinson shall have no obligation to expand the Association;
- (b) Notwithstanding Exhibit "A", to determine the precise Lot size, Lot configuration, and location of roads (Road Easements);
- (c) To determine the time-table or schedule for any creation of any Subdivisions plats or Lots.

There shall be no limitations on Declarant's option to expand except as set forth in this Section.

15.2. NORTH COVE ESTATES PLAT "A". Subject to and with the consent of the Other Owners as defined herein, the Declarant intends record with the Salt Lake County Recorder's office the proposed North Cove Estates Plat "A" Subdivision Plat (hereafter "Plat 'A'"), which is within the Property and which includes lots which have previously been improved and developed and on portions of which homes and other improvements have been constructed. The Subdivision improvements have been previously completed in Plat "A", and are not and would not be the subject of any warranty by Declarant pursuant to Section 16.

15.3 SUPPLEMENT(S) TO THIS DECLARATION. Immediately following the recordation with the Salt Lake County Recorder's office of any Subdivision plat or plats, the Declarant shall also record a Supplement to this Declaration (hereafter "Supplement") which shall set forth, as of the time of filing such Supplement, the Lots in such Subdivision(s) and the Unit(s) assigned to each, the Lots in previous Subdivision(s) and the Unit(s) assigned to each, the total number of Lots then included in the Association, the total number of Unit(s), and the consequent per Lot percentage.

The percentage of the total assessment allocated from time to time to each Lot within the recorded Subdivisions within the Property shall be the percentage that the

Unit(s) or fractional Unit assigned to the lot bears to all Unit(s) assigned to all lots in all Subdivisions recorded within the Property.

15.4. EASEMENTS. Declarant and Robinson reserve unto themselves all necessary rights, easements, rights-of-way for ingress and egress to, from, over and across any portion(s) of the Property not within a Subdivision and any and all streets within a Subdivision for the purpose of developing such portion(s) of the Property, for placement of utility lines and services, and for streets and ways necessary or incidental to the development of such portion(s) of the Property. Declarant and Robinson hereby grant to the Association for the benefit of the Owners the easements across the Property for culinary water lines that are more particularly described on Exhibit "B" attached hereto and by this reference made a part hereof. At the time Declarant records any Subdivision on a portion of the Property encumbered by a portion or all of such easements, that portion of said easements shall automatically be extinguished and merged in said Subdivision plat.

## 16. SUBDIVISION IMPROVEMENTS.

16.1. WARRANTY BY DECLARANT. In developing each Subdivision other than North Cove Estates Plat "A", Declarant shall install (a) water, sewer and storm drain lines or facilities to service or provide service to the Lots, (b) streets and curbing within the Road Easement lines, and (c) street lights as required by Salt Lake City or as Declarant deems appropriate. Declarant hereby warrants all of the improvements, lines and facilities installed or to be installed by Declarant referred to in the next preceding sentence (but not those installed by Salt Lake City or others) for a period of one (1) year from the date of completion of each against faulty materials and workmanship. This warranty is in lieu of all other warranties, including warranties of merchantability, fitness for purpose, or other warranties, express, implied, or otherwise regarding the improvements, lines and facilities referred to in this Section. Any implied warranty is limited to the one-year period of the above written warranty. Should any failure to conform to this warranty occur or appear within the warranty period, Declarant shall, upon written notification from the Association of such failure, correct the defect or non-conformity by repairing, replacing, or correcting the faulty materials or workmanship. Declarant shall not be liable for special, indirect or consequential damages. The remedies set forth herein are exclusive.

16.2 SUBDIVISION IMPROVEMENTS THE PROPERTY OF ASSOCIATION. All improvements, lines and facilities referred to in Section 16.1, except those owned by Salt Lake City or any private or public utility companies, shall be or become the property of the Association upon the date of completion of each. The Association shall be responsible for the maintenance, repair and replacement of the improvements, lines and facilities owned by the Association, and, if Declarant's warranty is breached, the Association may make demand upon Declarant to repair, replace or correct the faulty materials or workmanship and may seek appropriate legal remedies against Declarant to obtain Declarant's performance.

**16.3. DAMAGE TO SUBDIVISION IMPROVEMENTS.** Any Owner or person who directly or through an agent, contractor, subcontractor, or employee, causes damage to any of the Association's improvements, lines, or facilities, including damage by heavy equipment or construction vehicles, shall pay to the Association the cost to repair such damage and any and all costs, including reasonable attorneys' fees, incurred by the Association as a result of such damage, or in pursuing legal action to recover the costs of such damage or in connection with pursuing any remedy provided in this Section 16 or otherwise in this Declaration.

**16.4. FURTHER OBLIGATIONS OF DECLARANT WITH RESPECT TO SUBDIVISION IMPROVEMENTS.** Unless otherwise agreed by the Association in writing, until such time as Declarant has recorded a Subdivision plat or Supplement and, if applicable, has complied with Declarant's repair obligations under the preceding Section 16.3, the Association shall have no responsibility to maintain any Subdivision improvements constructed by Declarant on portions of the Property not located within Subdivisions. In the event (a) Subdivision improvements are completed by Declarant on a portion of the Property not included within a Subdivision and (b) less than six months remain on the warranty period applicable to such improvements under Section 16.1 at the time of recordation of a Subdivision plat and/or Supplement causing those Subdivision improvements to be maintained by the Association, then (i) Declarant shall have the responsibility to repair at Declarant's sole cost any then existing defects, deferred maintenance or other problems associated with those Subdivision improvements on or before the date of recordation of the Subdivision plat or Supplement, and (ii) Declarant's warranty under Section 16.1 shall be extended to the date which is six (6) months after recordation of the Subdivision plat or Supplement creating a maintenance obligation for the Association with respect to such improvements. If Declarant has a repair obligation with respect to certain improvements under the preceding sentence, then, notwithstanding the recordation of a Subdivision plat or Supplement covering those improvements, the Association shall have no obligation to maintain such improvements until Declarant shall have complied with its repair obligation set forth in the preceding sentence.

**17. GENERAL PROVISIONS.**

**17.1. ENFORCEMENT OF COVENANTS.** The Association, any Owner, and Declarant and Robinson (until all of the Property has been included in a Subdivision), shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association, or by any Owner, or by Declarant, or by Robinson, to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

**17.2. EFFECT OF WAIVER OR BREACH OR FAILURE TO ENFORCE.** Each and all of the covenants, conditions, restrictions and agreements contained herein shall be deemed and construed to be continuing, and the extinguishment of any right of re-entry or reversion for any breach shall not impair or affect any of the covenants, conditions, restrictions or agreements, so far as any future or other breach is



concerned. It is understood and agreed by and between the parties hereio and those who become subject to the provisions hereof, that no waiver of a breach of any of the covenants, conditions, restrictions, and agreements herein contained shall be construed to be a waiver of any other breach of the same, or other covenants, conditions, restrictions, and agreements contained herein, nor shall failure to enforce any one of such covenants, conditions, restrictions, or agreements either by forfeiture or otherwise, be construed as a waiver of any other covenant, condition, restriction or agreement.

17.3. SEVERABILITY. Invalidation of any one of or any portion of any one of these covenants, conditions, restrictions and agreements by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

17.4. PARAGRAPH CAPTIONS. The paragraph captions and phrases as to the contents of particular paragraphs are inserted herein only as a matter of convenience and for reference and in no way are intended to be part of this Declaration or in any way to define, limit or describe the scope or intent of the particular paragraph to which they refer.

17.5. ATTORNEYS' FEES AND COSTS. In the event any claim, demand or lawsuit is made or instituted to enforce any of the provisions contained in this Declaration, the defaulting Owner, purchaser, person or entity agrees to pay all costs and expenses of enforcing the same, or collecting any penalties or damages, including the payment of a reasonable attorneys' fee and all court costs.

17.6. RELATIONSHIP TO CITY, COUNTY AND STATE ORDINANCES. The provisions contained in this Declaration are in addition to the effective laws and ordinances of Salt Lake City, Salt Lake County, and the State of Utah. In the event of any conflict between the provisions of this Declaration and the effective laws and ordinances of Salt Lake City, Salt Lake County, or the State of Utah, the most restrictive provision shall apply.

17.7. COUNTERPARTS. This Declaration may be executed in several counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. In addition, this Declaration may contain more than one counterpart of the signature page and this Declaration may be executed by affixing of the signatures of each of the parties to one such counterpart signature page; all such counterpart signature pages shall be read as though one, and they shall have the same force and effect as though all of the signers had signed a single signature page.

[THIS SPACE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the undersigned has executed this document this 1<sup>st</sup>  
day of August, 1991.

ATTEST:

ENSIGN DOWNS, INC.

Christopher F. Robinson  
Christopher F. Robinson, Secretary

By: Alexander J. Robinson  
Alexander J. Robinson, President

Alexander J. Robinson  
Alexander Robinson

Christopher F. Robinson  
Christopher F. Robinson

Victoria A. Robinson  
Victoria A. Robinson

BEAVER CREEK PARTNERSHIP

By: Christopher F. Robinson  
Its: General Partner

ATTEST:

ARIMO CORPORATION

Victoria A. Robinson

By: Christopher F. Robinson  
Its: President

James R. Greenbaum, Jr.  
James R. Greenbaum, Jr.

Kelly A. Greenbaum  
Kelly A. Greenbaum

James F. Ostler  
James F. Ostler

Sally W. Ostler  
Sally W. Ostler

Donald Ozman  
Donald Ozman

POTOMAC CORPORATION

ATTEST:

m. jay

By: Donald Ozman  
Its: Pres

Ida W. Smith  
Ida W. Smith

Charles W. Walton  
Charles W. Walton

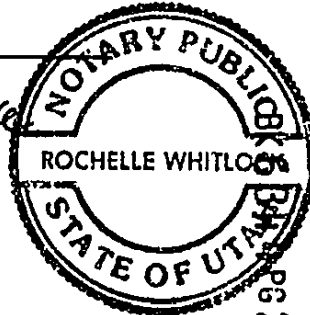
STATE OF UTAH )  
                          : ss.  
COUNTY OF SALT LAKE )

On the 1<sup>st</sup> day of August, A.D. 1991, personally appeared before me ALEXANDER J. ROBINSON and CHRISTOPHER F. ROBINSON who being by me duly sworn did say, each for himself, that he, the said ALEXANDER J. ROBINSON, is the president and that he, the said CHRISTOPHER F. ROBINSON is the secretary of ENSIGN DOWNS, INC. and that the within and foregoing instrument was signed on behalf of said corporation by authority of a resolution of its Board of Directors and said ALEXANDER J. ROBINSON and CHRISTOPHER F. ROBINSON duly acknowledged to me that said corporation executed the same and that the seal affixed is the seal of said corporation.

Rochelle Whitlock  
NOTARY PUBLIC

My Commission Expires:  
9 April 1992

Residing at: Salt Lake City, Salt Lake



PK6344  
262620

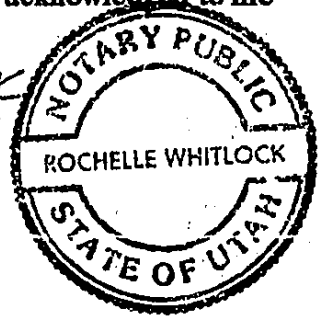
STATE OF UTAH )

: ss.

COUNTY OF SALT LAKE )

On the 1<sup>st</sup> day of August, 1991, personally appeared before me Alexander J. Robinson, the signer of the within Declaration who duly acknowledged to me that he executed the same.

Rochelle Whitlock  
Notary Public  
Residing In: Salt Lake



My Commission Expires:

9 April 1992

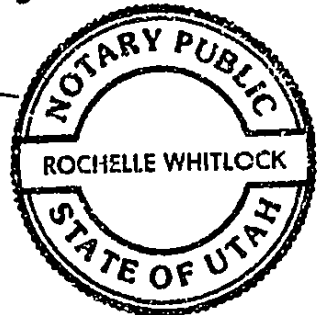
STATE OF UTAH )

: ss.

COUNTY OF SALT LAKE )

On the 1<sup>st</sup> day of August, 1991, personally appeared before me Christopher F. Robinson, the signer of the within Declaration who duly acknowledged to me that he executed the same.

Rochelle Whitlock  
Notary Public  
Residing In: Salt Lake



My Commission Expires:

9 April 1992

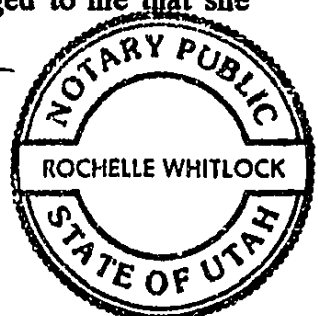
STATE OF UTAH )

: ss.

COUNTY OF SALT LAKE )

On the 1<sup>st</sup> day of August, 1991, personally appeared before me Victoria A. Robinson, the signer of the within Declaration who duly acknowledged to me that she executed the same.

Rochelle Whitlock  
Notary Public  
Residing In: Salt Lake



My Commission Expires:

9 April 1992

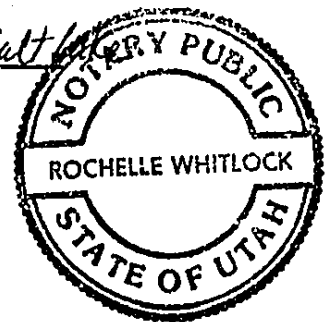
STATE OF UTAH )  
: ss.  
COUNTY OF SALT LAKE )

On the 1<sup>st</sup> day of August, 1991, personally appeared before me Christopher F. Robinson who being by me duly sworn did say that he the said Christopher F. Robinson is a general partner of Beaver Creek Partnership and that the within and foregoing instrument was signed in behalf of said Partnership and said Christopher F. Robinson duly acknowledged to me that said Partnership executed the same.

Rochelle Whitlock  
NOTARY PUBLIC  
Residing in: Salt Lake City, Salt Lake

My Commission Expires:

9 April 1992



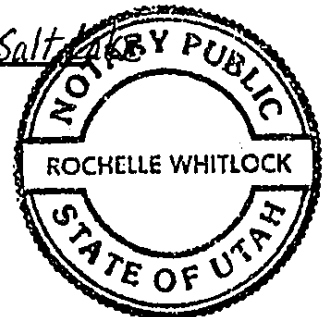
STATE OF UTAH )  
: ss.  
COUNTY OF SALT LAKE )

On the 1<sup>st</sup> day of August, 1991, personally appeared before me Christopher F. Robinson and Victoria A. Robinson, who being by me duly sworn did say that they the said Christopher F. Robinson and Victoria A. Robinson are the President and Secretary, respectively, of Arimo Corporation and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its Board of Directors, and said Christopher F. Robinson and Victoria A. Robinson duly acknowledged to me that said corporation executed the same.

Rochelle Whitlock  
NOTARY PUBLIC  
Residing in: Salt Lake City, Salt Lake

My Commission Expires:

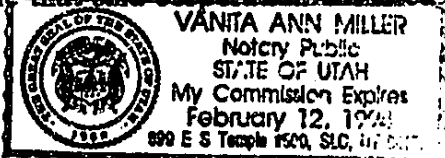
9 April 1992



STATE OF UTAH )  
: ss.  
COUNTY OF SALT LAKE )

On the 2nd day of August, 1991, personally appeared before me D.B. Ozmun and M. Jay Nilson, the signers of this Declaration,

who being by me duly sworn did say, each for himself, that he, the said D. B. Ozmun is President and he, the said M. Jay Nilson is ~~Secretary~~ of Potomac Corporation, and that the within Declaration was signed in behalf of said corporation by authority of a resolution of its Board of Directors, and said D. B. Ozmun and M. Jay Nilson each acknowledged to me ~~that said corporation executed the same.~~

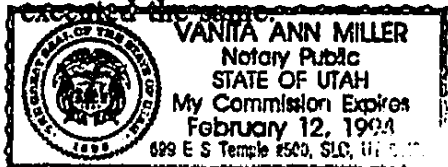


Vanita Ann Miller  
 NOTARY PUBLIC  
 Residing in: Salt Lake City, Utah

My Commission Expires:  
2-12-94

STATE OF UTAH )  
 : ss.  
 COUNTY OF SALT LAKE )

On the 2nd day of August, 1991, personally appeared before me Donald B. Ozmun, the signer of the within Declaration who duly acknowledged to me that he



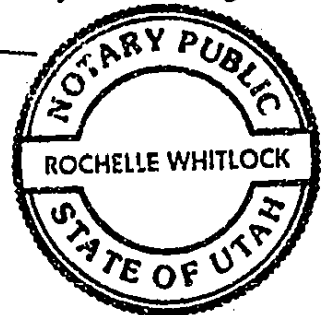
Vanita Ann Miller  
 Notary Public  
 Residing In: Salt Lake City, Utah

My Commission Expires:  
2-12-94

STATE OF UTAH )  
 : ss.  
 COUNTY OF SALT LAKE )

On the 2nd day of August, 1991, personally appeared before me James F. Ostler and Sally W. Ostler, the signers of the within Declaration who duly acknowledged to me that they executed the same.

Rochelle Whitlock  
 Notary Public  
 Residing In: Salt Lake

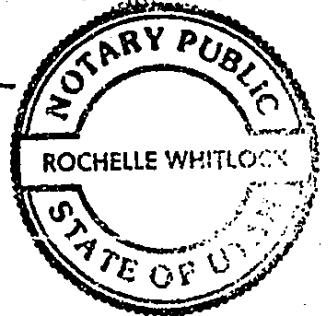


My Commission Expires:  
9 April 1992

STATE OF UTAH )  
                  : ss.  
COUNTY OF SALT LAKE )

On the 2nd day of August, 1991, personally appeared before me Charles W. Walton, the signer of the within Declaration who duly acknowledged to me that he executed the same.

Rochelle Whitlock  
Notary Public  
Residing In: Salt Lake



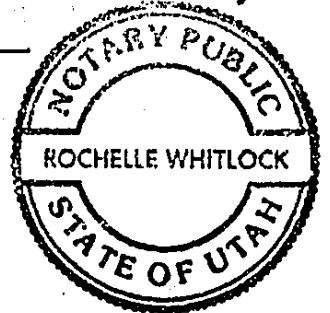
My Commission Expires:

9 April 1992

STATE OF UTAH )  
                  : ss.  
COUNTY OF SALT LAKE )

On the 1<sup>st</sup> day of August, 1991, personally appeared before me James R. Greenbaum, Jr. and Kelly A. Greenbaum, the signers of the within Declaration who duly acknowledged to me that they executed the same.

Rochelle Whitlock  
Notary Public  
Residing In: Salt Lake



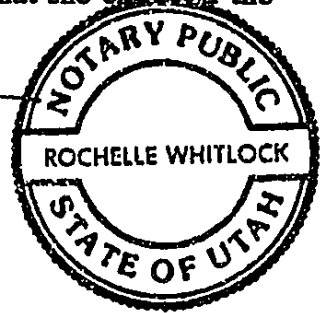
My Commission Expires:

9 April 1992

STATE OF UTAH )  
                  : ss.  
COUNTY OF SALT LAKE )

On the 1st day of August, 1991, personally appeared before me Ida Smith, the signer of the within Declaration who duly acknowledged to me that she executed the same.

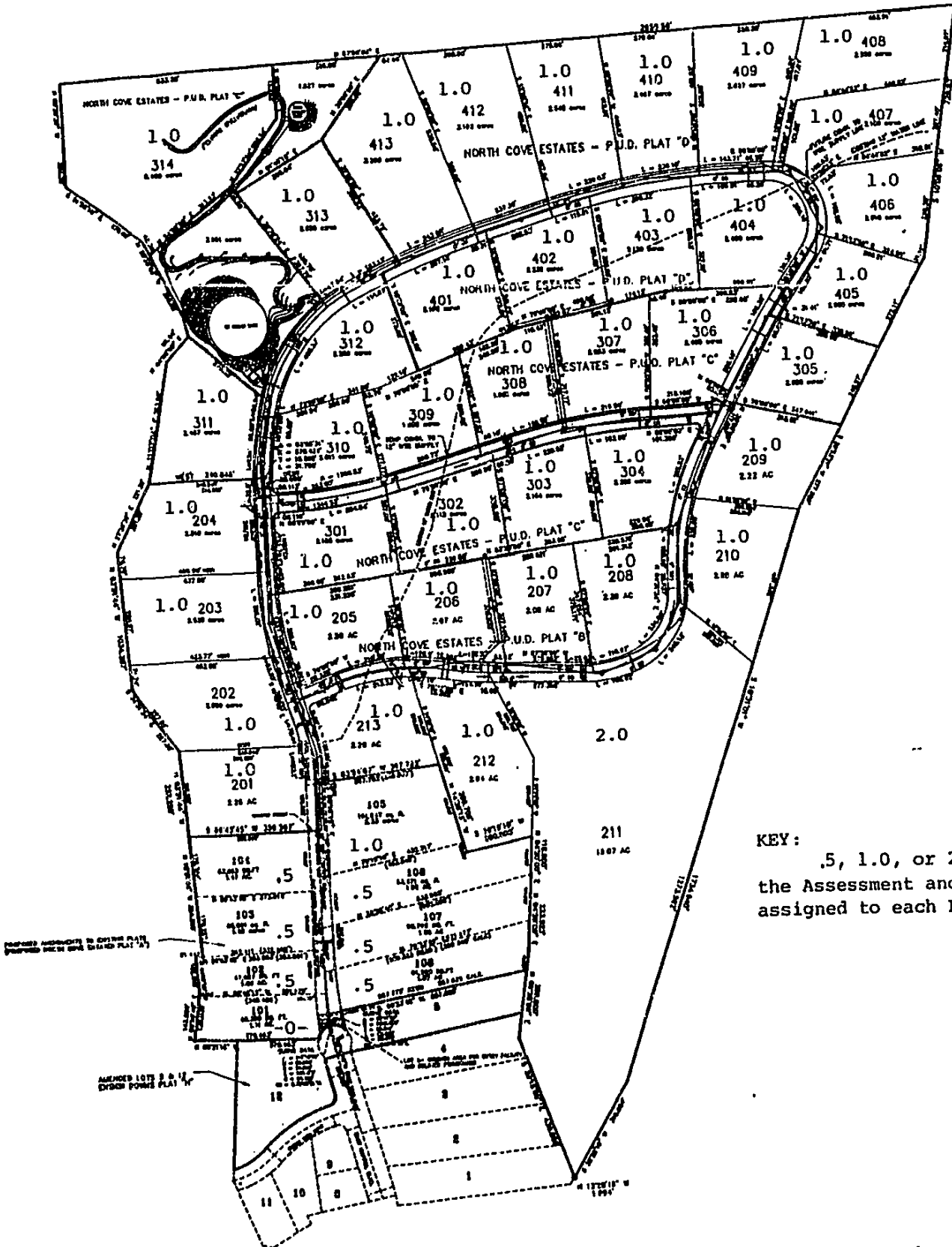
Rochelle Whitlock  
Notary Public  
Residing In: Salt Lake



My Commission Expires:

9 April 1992

EXHIBIT "A"



KEY:  
 .5, 1.0, or 2.0 denotes  
 the Assessment and Voting Unit(s)  
 assigned to each Lot

BK 6344 PG 2625



## EXHIBIT "B"

1. Easement for 16 inch water line in Oak Forest Road North of Lot 204, proposed NORTH COVE ESTATES PLAT "B".

The following described line is the center line of a 13 foot wide water line easement (6.5 feet to the left and 6.5 feet to the right of center line).

Beginning at a point on the center line of a 13 foot wide easement said point being due West 391.383 feet and due South 516.802 feet from the North Quarter Corner of Section 30, Township 1 North, Range 1 East, Salt Lake Base and Meridian; thence along center line along the arc of a 849.924 foot radius curve to the right; bearing to the radius point bears due East; thence along arc of said curve 148.340 feet through a central angle of 10°00'00"; thence departing said curve North 10°00'00" East 56.002 feet to the point of a 470.091 foot radius curve to the right, bearing to the radius point bears South 80°00'00" East; thence along arc of said curve 73.910 feet through a central angle of 09°00'30"; thence departing said curve North 70°59'29" West 48.500 feet to the terminus of said center line.

2. Easement for 16 inch water line in Canyon Oaks Way North of Lot 204, proposed NORTH COVE ESTATES PLAT "B".

The following description is the center line description of a 13 foot wide water line easement (6.5 feet to the left and 6.5 feet to the right of center line).

Beginning at a point on the center line of 13 foot wide easement said point of beginning being due East 985.051 feet and due South 334.707 feet from the North Quarter Corner of Section 30, Township 1 North, Range 1 East; Salt Lake Base and Meridian and running thence North 30°00'00" East 212.185 feet to the point of a 1124.688 foot radius curve to the right; bearing to the radius point bears South 60°00'00" East. Thence along arc of said curve 98.148 feet through a central angle of 05°00'00"; thence departing said curve North 35°00'00" East 182.976 feet to the point of a 170.500 foot radius curve to the left. Bearing to the radius point bears South 55°00'00" East; thence along arc of said curve 202.309 feet through a central angle of 67°59'06" to the terminus of above described center line.

3. Easement for 16 inch water line across proposed Lot 407, proposed NORTH COVE ESTATES PLAT "D".

Beginning at a point which is due East 1242.741 feet and due North 297.110 feet from the North Quarter Corner of Section 30, Township 1 North, Range 1 East, Salt Lake Base and Meridian; thence from said point of beginning North 68°49'15" East,

105.018 feet, thence North  $70^{\circ}57'57''$  East 167.253 feet; thence North  $77^{\circ}48'28''$  East 84.159 feet; thence South  $88^{\circ}20'36''$  East 53.288 feet; thence South  $10^{\circ}06'06''$  West 20.219 feet; thence North  $88^{\circ}20'36''$  West 47.890 feet; thence South  $77^{\circ}48'28''$  West 80.535 feet; thence South  $70^{\circ}57'57''$  165.683 feet; thence South  $68^{\circ}49'15''$  West 87.625 feet; thence South  $21^{\circ}10'45''$  East 41.418 feet; thence South  $68^{\circ}49'15''$  East 6.086 feet to a point on a 178.000 foot radius curve to the left. Bearing to the radius point bears South  $68^{\circ}49'15''$  West; thence along arc of said curve 62.707 feet through a central angle of  $20^{\circ}11'05''$  to the point of beginning.

BK6344PG2627